Statement of Representative Gene Green, Chairman of Investigative Subcommittee in the Matter of Charles B. Rangel
Adjudicatory Subcommittee Meeting in the Matter of Charles B. Rangel
7/29/10

Thank you, Madame Chair.

The investigative subcommittee recently concluded its 21 month long investigative process and transmitted the Statement of Alleged Violation (SAV) in the matter of Mr. Charles B. Rangel to the Full Committee.

This investigation in the subcommittee began at the request of Mr. Rangel. None of the Members of the investigative subcommittee volunteered for this assignment.

I think it's safe to say that none of us enjoyed the assignment- no one wants to investigate their peers. But we recognize this was a task that was requested of us and the investigative subcommittee spent a significant amount of time closely examining the factual and legal issues involved in this matter.

The Members and staff of the investigative subcommittee worked diligently throughout this investigation conducting approximately 50 depositions, as well as many informal interviews.

One deposition was conducted with Mr. Rangel on December 15, 2009. The investigative subcommittee also met with Mr. Rangel two additional times including one meeting specifically requested by Mr. Rangel.

Throughout the course of the investigation, the subcommittee issued over 160 formal requests for documents, as well as many informal requests; reviewed over 28,000 pages of documents and testimony; and held more than 60 investigative subcommittee meetings.

The investigative subcommittee spent many hours together, discussing at length the evidence and whether the evidence merited any charges in a

Statement of Alleged Violation. After weeks of discussion, the investigative subcommittee adopted a SAV on June 17, 2010.

The charges in the Statement of Alleged Violation relate to four general subject matters:

(1) solicitations and donations to the Rangel Center for Public Service at the City College of New York;

(2) errors and omissions on Respondent's Financial Disclosure Statements;

(3) use of a rent-stabilized residential apartment by Respondent's campaign committees; and

(4) failure to report and pay taxes on rental income on Respondent's Punta Cana beach villa.

For each of these subject matters, the investigative subcommittee found a substantial reason to believe that Congressman Rangel's conduct merited charges in a Statement of Alleged Violation.

The subcommittee was also tasked with investigating Mr. Rangel's compliance with House Administration Rules regarding the storage of a vehicle in the House parking garage.

The SAV does not make recommendation regarding Mr. Rangel's compliance with parking rules. An additional report on the parking matter is enclosed with the SAV and transmittal letter.

The report and transmittal letter sent to the Standards Committee make a recommendation to House Administration to examine the current parking rules and the enforcement of those rules.

This has been a long process – longer than any of us would have liked. We have detailed some of the reasons for the length of the investigation in our transmittal letter to the Committee.

Throughout the course of this investigation, there has been a lot of speculation and inaccuracies reported in the media about investigation itself and what Mr. Rangel knew about the investigation.

To say Mr. Rangel and his attorneys were unaware of the work of the subcommittee would be incorrect and a disservice to the Members of the investigative subcommittee.

Due to the Standards Committee rules regarding confidentiality, the Investigative Subcommittee has been unable to publicly respond to these inaccurate comments. The transmittal letter to the full committee and the SAV should give greater clarity to the actions of the subcommittee.

I would also like to take this opportunity, as Chair of the subcommittee, to submit a written response to Mr. Rangel's response to the SAV, to the Chair of the full committee.

I am thankful to say that the investigative subcommittee has now completed its work. I would like to thank Congressman Jo Bonner, as well as the other Members of the Investigative Subcommittee, Congressman Bobby Scott and Congressman Doc Hastings for their service on the subcommittee.

One of the most difficult tasks assigned to a Member of Congress is to sit in judgment of a colleague. The task is even more difficult when the subject of the investigation has befriended and mentored so many new Members of Congress.

I am not envious of the role of the Members of the adjudicatory subcommittee, and I know that all parties look forward to a final resolution in this matter.

Written Statement of Representative Gene Green,
Chairman of the Investigative Subcommittee
in the Matter of Representative Charles B. Rangel

On June 17, 2010, the Investigative Subcommittee adopted a Statement of Alleged Violation (SAV) alleging that, with respect to each of the 13 counts contained in the SAV, the Investigative Subcommittee found a "substantial reason to believe that a violation of the Code of Official Conduct, or of a law, rule, regulation, or other standard of conduct applicable to the performance of official duties or the discharge of official responsibilities by a Member . . . has occurred." Following motions practice in connection with the SAV, Respondent submitted, on July 21, 2010, a document entitled "Respondent's Answer and Defenses to Statement of Alleged Violation," in which Respondent denied all counts alleged in the SAV and asserted numerous defenses.

Committee Rule 22(a)(1) permits a respondent "[w]ithin 30 days from the date of transmittal of a Statement of Alleged Violation" to "file with the investigative subcommittee an answer[.]." That same rule requires that a respondent's answer to an SAV be made "in writing and under oath, signed by respondent and respondent's counsel." Respondent's answer was due to be filed on July 19, 2010. The Investigative Subcommittee, at Respondent's request, extended the period for submission of an answer until July 21, 2010.

On July 21, 2010, Respondent's counsel submitted an eight-page document styled as "Respondent's Answer and Defenses to Statement of Alleged Violation" While signed by both Respondent and his counsel, the July 21, 2010, submission was not signed under oath.

As a result, the Investigative Subcommittee determined that Respondent's July 21, 2010, submission did not constitute an "answer" under Committee Rule 22(a)(1). Notwithstanding the deficiency in the July 21, 2010, submission, the Investigative Subcommittee provided Respondent with an opportunity to cure the defect in his submission. His counsel was notified, in writing, of the defect in your submission on July 21, 2010, and Respondent was given until 12:00 p.m. on July 22, 2010, to sign his July 21, 2010, submission under oath.

On July 22, 2010, Respondent's counsel sent, at 12:37 p.m., a different 35-page submission. This submission also failed to contain a proper oath.

The Investigative Subcommittee determined that Respondent's July 21, 2010, submission, which was never signed under oath, was not in the proper form, not timely, and, therefore, not in compliance with the requirements of Committee Rule 22(a).

By letter dated July 22, 2010, Respondent was notified of this determination and provided notice that the Committee considered his failure to file an answer in conformance with the requirements of Rule 22(a) as a denial of each count alleged in the SAV.

Following transmittal of the SAV, the Chair, after consulting with the Ranking Republican Member of the Adjudicatory Subcommittee, permitted Respondent to submit a written statement in response to the Statement of Alleged Violation. The Chair also invited the Chair and Ranking Republican Member of the Investigative Subcommittee to make a statement addressing that response.

As permitted by the Chair, Respondent filed a 32-page document styled as "Statement of Charles B. Rangel in Response to the Statement of Alleged Violation." Respondent's statement largely raises issues that were addressed by the Investigative Subcommittee in its Order on Respondent's Motion for Bill of Particulars and Memorandum in Support of Order and its Order on Respondent's Motion to Dismiss and Memorandum in Support of Order. The Investigative Subcommittee does find it appropriate to respond to certain procedural defenses that Respondent has asserted in his "First Defense." Those defenses are addressed below.

Respondent was provided a full and fair opportunity to respond

The Investigative Subcommittee provided Respondent with a full and fair opportunity to respond to the Statement of Alleged Violation and to present an adequate defense.

On May 25, 2010, the Investigative Subcommittee notified Respondent that it intended to adopt an SAV on June 17, 2010. Following execution of a non-disclosure agreement by Respondent and his counsel, a copy of the proposed SAV, along with the evidentiary record, was provided to Respondent on May 27, 2010. House and Standards Committee rules require that a respondent be provided a proposed SAV and the evidentiary record at least 10 days prior to the scheduled vote on the SAV. Respondent was provided these items 21 days prior to the scheduled vote – more than twice the amount of time required by House and Committee rules.

On June 17, 2010, the Investigative Subcommittee adopted the SAV. On that same date, the Chair of the Investigative Subcommittee, acting pursuant to Committee Rule 22(e)(2), entered an order setting forth deadlines for Respondent to file any motions (Order). In shortening certain deadlines, the Investigative Subcommittee took into consideration several factors. Included was the fact that Respondent had been provided a 40-page SAV, which was far more detailed than a typical SAV. Another consideration was the fact that Respondent had been provided a copy of the proposed SAV 21 days prior to the vote and more than twice the amount of time required by the rules. In addition, most of the evidentiary record had been provided to the Investigative Subcommittee by Respondent, and, no later than January 2010, Respondent had obtained copies of documents produced by certain third parties to the Investigative

Subcommittee. Respondent, accordingly, had access to much of the evidentiary record for several months before any motions or answer were due under the Order.

Also considered was the length of the investigation, including Respondent's repeated public statements regarding its length. These public statements were troubling to the Investigative Subcommittee, particularly in light of the fact that, in several instances, the actions of Respondent and his counsel caused significant delays. For example, on October 8, 2008, the Investigative Subcommittee made its first written request to Respondent for documents. The request had a return date of October 28, 2008. While Respondent did begin producing documents on that date, all of the responsive documents were not produced until December 11, 2008. In another instance, the Investigative Subcommittee requested documents from Respondent on April 15, 2010. Respondent, through his counsel, refused repeated requests for those documents, necessitating the need for service of a subpoena on Respondent. After the subpoena was served, the documents were produced on June 10, 2010. In several other instances, Respondent produced documents after the return date set by the Investigative Subcommittee.

Another event that caused a significant delay in the investigation was Respondent's assertion of certain privileges, set forth in a 40-page privilege log. The log was not produced until May 29, 2009. After the Investigative Subcommittee and Respondent reached an agreement that permitted subcommittee counsel to review certain documents, subcommittee counsel reviewed certain documents for which privileges had been asserted. Upon review of the documents, counsel determined that many of the claims of privilege were, in fact, not valid. A review of those materials led to the interview of additional witnesses, which could have been completed earlier but for Respondent's improper claims of privilege as to those documents.

The inquiry was further delayed pending receipt of a forensic accountant's report, which Respondent volunteered to produce. In September 2008, Respondent publicly announced his intention to hire a forensic accountant. Respondent issued a press release on November 13, 2008, stating that he had retained a forensic accounting firm to review his Financial Disclosure Statements and tax returns. The accountant's report was not sent to the Investigative Subcommittee until May 12, 2009, six months after Respondent's public statements. Respondent submitted amended Financial Disclosure Statements for the calendar years 1998 through 2007, as well as his original Financial Disclosure Statement for calendar year 2008, on August 12, 2009, almost one year after Respondent publicly pledged to correct his Financial Disclosure Statements.

The delays in the investigation caused by Respondent were a factor in the Investigative Subcommittee's determination that "special circumstances" existed under Committee Rule 22(e)(2). The Investigative Subcommittee's action in shortening certain deadlines was consistent with Committee rules, as well as Respondent's repeated public requests for the investigation to be completed.

In providing Respondent with a copy of the evidentiary record, the Investigative Subcommittee provided more evidence than required by Committee rules. For example, Committee Rule 26(c) requires the disclosure only of evidence that the subcommittee "intends to use to prove" the charges in the SAV. Committee rules permit testimony by deposition transcript in lieu of live witnesses "if the witness is unavailable." As such, there is no intention to use any deposition transcripts in lieu of testimony (which is subject to change if a witness becomes unavailable), and no obligation to provide any transcripts. The Investigative Subcommittee, in a spirit of full disclosure, nonetheless provided Respondent an extensive number of transcripts.

Respondent has been provided exculpatory documents

Respondent asserts that the investigative subcommittee violated "the rule requiring that it furnish Congressman Rangel with all exculpatory evidence and has impaired Congressman Rangel's ability to defend himself" by failing to produce a copy of a lease application for an apartment to be occupied by Steven Rangel which contains the handwritten notation "16M." The Investigative Subcommittee did not produce the lease application for Steven Rangel referenced in Respondent's Answer because the document is not exculpatory. Respondent has been charged with a non-conforming use of apartment 10U, a residential rent-stabilized apartment, for his campaign committees. The notation of "16M" on a lease application has no bearing on Respondent's use of apartment 10U.

Even if this document was exculpatory, the Investigative Subcommittee's failure to produce it has not "impaired" Respondent's defense. Respondent already has referred to that document in a submission to the Investigative Subcommittee dated January 8, 2010. Since Respondent has already used the subject document, his argument that his defense has been "impaired" is spurious.